

Filed for intro on 01/21/95
House Bill _____
By _____

Senate Bill No.SB0079
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AN ACT to amend Tennessee Code Annotated, Title 2, Chapter 10,
and Title 3, Chapter 6, related to campaign finance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 2, Chapter 10, is amended by adding the
following as a new part 3:

SECTION 2-10-301.

(a) This part shall be known and may be cited as the "Campaign
Contribution Limits Act of 1995."

(b) The registry of election finance shall have the jurisdiction to
administer and enforce the provisions of this part.

SECTION 2-10-302.

(a) No person shall make contributions to any candidate with respect to any election for state or local public office which, in the aggregate, exceed one thousand dollars (\$1,000) per election.

(b) No multicandidate political campaign committee shall make contributions to any candidate with respect to any election for state or local public office which, in the aggregate, exceed five thousand dollars (\$5,000) per election.

(c) No candidate shall make contributions to his own election using personal funds which, in the aggregate exceed:

(1) Two hundred thousand dollars (\$200,000) per election for a statewide election;

(2) Twenty thousand dollars (\$20,000) per election for an election to any other state or local public office.

SECTION 2-10-203. For purposes of the limitations contained in this part:

(a) Contributions made to any political campaign committee authorized by a candidate to accept contributions on the candidate's behalf shall be considered to be contributions made to such candidate;

(b) Contributions made by a political campaign committee authorized by a candidate to make expenditures on the candidate's behalf shall be considered contributions made by such candidate;

(c) All contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the registry of election finance and to the intended recipient;

(d) All contributions made by affiliated political campaign committees shall be considered to have been made by a single committee; and

(e) Expenditures made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, the candidate's political campaign committees, or their agents, shall be considered to be a contribution to such candidate. For purposes of this subsection, the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, the candidate's political campaign committees, or their authorized agents shall be considered to be an expenditure.

SECTION 2-10-304.

(a) The limitations contained in this part shall not apply to any loan of money by a financial institution as defined in Section 45-10-102(3) that:

(1) Is made in accordance with applicable law and in the ordinary course of business;

(2) Is made on a basis reasonably designated to assure repayment, evidenced by a written instrument, and subject to a payment due date or amortization schedule; and

(3) Bears the usual and customary interest rate of the lending institution.

(b) An endorsement or guaranty of a loan made pursuant to subsection (a) shall be considered a contribution in the amount of the endorsement or guaranty and shall be subject to the limitations contained in this part. Where the written instrument does not specify the portion of the loan for which the endorser or guarantor is liable, each endorser or guarantor shall be considered to have

made a contribution in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

SECTION 2-10-305. The limits contained in this part shall not apply to:

(a) The retention of funds by a candidate pursuant to Section 2-10-114(a)(1);

(b) The transfer of funds by a candidate pursuant to Section 2-10-114(a)(1) to a campaign fund of the same candidate for election to a different state or local public office; or

(c) The transfer of funds by a candidate for election to a federal office to a campaign fund of the same candidate for election to a state or local public office.

SECTION 2-10-306.

(a) All contributions made by political campaign committees controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly shall be considered to have been made by a single committee. Such contributions shall not, in the aggregate, exceed:

(1) Two hundred thousand dollars (\$200,000) per election to any candidate in a statewide election;

(2) Twenty thousand dollars (\$20,000) per election to any other candidate for state or local public office.

(b) For purposes of this section contributions shall not include:

(1) Payment of the costs of preparation, display or mailing or other distribution with respect to printed slate cards, sample ballots, or other printed listings of three (3) or more candidates who are opposed for election. This exemption shall not apply to costs incurred with respect to

the preparation and display of listings made on broadcasting stations or in newspapers, magazines and similar types of general public political advertising such as billboards;

(2) Payment of the costs of voter registration and get-out-the-vote activities conducted by party committees, unless the payments are made on behalf of a clearly identified candidate and the payment can be directly attributed to that candidate;

(3) Expenditures for rent, personnel, overhead, general administrative, fundraising, and other day-to-day costs of party committees, unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate; or

(4) Expenditures for education campaign seminars and for training of campaign workers, unless the expenditures are made on behalf of a clearly identified candidate and the expenditure can be directly attributed to that candidate.

SECTION 2-10-307.

(a) No candidate or political campaign committee shall accept any contribution or make any expenditure in violation of the provisions of this part. No officer or employee of a political campaign committee shall accept a contribution made for the benefit or use of a candidate, or make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(b) A contribution made or accepted in excess of the limitations established by this part shall not be a violation of the part if the candidate or the political campaign committee returns or refunds the contribution to the person who made the contribution within ten (10) days of the candidate's or committee's receipt of the contribution.

SECTION 2-10-308.

(a) The registry of election finance may impose a maximum civil penalty for a violation of this part or not more than ten thousand dollars (\$10,000) or one hundred fifteen percent (115%) of the amount of all contributions made or accepted in excess of the limitations established by this part, whichever is greater.

(b) Penalties imposed under this part shall be deposited into the state general fund.

(c) To request a waiver or reduction or in any way to contest a penalty imposed by the staff of the registry, a person shall file a petition with the registry. Such petition shall be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5.

(d) If a civil penalty lawfully assessed against a candidate is not paid within thirty (30) days after the assessment becomes final, the candidate shall be ineligible to qualify for election to any state or local public office until such penalty is paid.

SECTION 2-10-309. In determining issues arising in regard to this act, the registry may rely on the precedents established under the federal law.

SECTION 2. Tennessee Code Annotated, Section 2-10-102, is amended by deleting the fifth word in the section, "part", and substituting in its place the word "chapter".

SECTION 3. Tennessee Code Annotated, Section 2-10-102, is amended by adding the following new subdivisions to be appropriately designated:

() "Affiliated political campaign committees" means political campaign committees established, financed, maintained, or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or any other person, or by any group of such persons.

(A) All committees established, financed, maintained or controlled by a single corporation and/or its subsidiaries shall be affiliated political campaign committees.

(B) All committees established, financed, maintained or controlled by a single national or international union and/or its local unions or other subordinate organizations shall be affiliated political campaign committees.

(C) All committees established, financed, maintained or controlled by an organization of national or international unions and/or all its state and the local central bodies shall be affiliated political campaign committees, but such committees shall not be affiliated with the political campaign committees established, financed, maintained or controlled by any union that is a member of the organization.

(D) All committees established, financed, maintained or controlled by a membership organization, other than political party committees, including trade or professional associations and/or related state and local entities of that organization or group shall be affiliated political campaign committees.

(E) All committees established, financed, maintained or controlled by the same person or group of persons shall be affiliated political campaign committees.

(F) Owners, officers, employee, members or other individuals associated with any corporation, labor organization, membership organization, or any other person or group of persons that has established, financed, maintained or controlled a political campaign

committee shall not be considered affiliated with such political campaign committee.

() “Personal funds” means:

(A) any assets which the candidate had legal right of access to or control over at the time he or she became a candidate and with respect to which the candidate had either (i) legal and rightful title, or (ii) an equitable interest;

(B) salary and other earned income from bona fide employment; dividends and proceeds from the sale of the candidate’s stocks or other investments; bequests to the candidate; income from trusts established before candidacy; income from trusts established by bequest after candidacy of which the candidate is the beneficiary; gifts of a person nature which had been customarily received prior to candidacy; and

(C) that portion of assets jointly owned with the candidate’s spouse which is the candidate’s share under the instruments of conveyance or ownership. If no specific share is indicated by such instrument, the value of one-half of the property used shall be considered as personal funds.

SECTION 4. Tennessee Code Annotated, Section 2-10-205, is amended by deleting the word “and” at the end of subsection (2), by deleting the period at the end of subsection (3) and substituting in its place the punctuation and word “; and”, and by adding the following as a new subsection:

(4) The “Campaign Contribution Limits Law,” compiled in part 3 of this chapter.

SECTION 5. Tennessee Code Annotated, Section 2-10-207(1), is amended by deleting the word “part” and by substituting instead the word “chapter”.

SECTION 6. Tennessee Code Annotated, Section 2-10-207(7), is amended by deleting the word “and” between the words “chapter 6” and the word “the” and by adding between the words “part 5” and the semicolon the words “and the Campaign Contribution Limits Act, compiled in part 3 of this chapter”.

SECTION 7. Tennessee Code Annotated, Section 2-10-207(3), is amended by deleting the language “the appropriate disclosure states” and by substituting instead the language “this chapter and the Conflict of Interest Disclosure Law, compiled in Title 8, Chapter 50, part 5”.

SECTION 8. Tennessee Code Annotated, Section 3-6-108, is amended by adding the following new subdivision to be appropriately designated:

() No lobbyist, employer of a lobbyist or multicandidate political campaign committee controlled by a lobbyist or employer of a lobbyist shall make a contribution to a candidate for the office of governor, member of the general assembly or public service commission during the time that the general assembly is in a regular annual legislative session.

SECTION 9. Tennessee Code Annotated, Section 2-10-105(c)(1), is amended by adding the following sentence at the end of that subsection:

Each independent candidate for a state or local public office, which office has a primary election, shall file all primary reports required by this subsection, even though such independent candidate is not included on the ballot in such primary election.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it, and shall only apply to contributions or expenditures made after that date.

